

**State of California**

Department of Industrial Relations  
 Division of Occupational Safety and Health  
 Fresno District Office  
 2550 Mariposa Street, Room 4000  
 Fresno, CA 93721  
 Phone: (559) 445-5302 Fax: (559) 445-5786

**Inspection #:** 1495041  
**Inspection Dates:** 09/22/2020 – 05/26/2021  
**Issuance Date:** 05/28/2021  
**CSHO ID:** L2684  
**Optional Report #:** 014-21



## **Citation and Notification of Penalty**

**Company Name:** Foster Poultry Farms, Inc.

**Establishment DBA:**

and its successors

**Inspection Site:** 2960 S. Cherry Ave.  
 Fresno, CA 93706

Citation 1 Item 1 Type of Violation: **Repeat Regulatory**

### **CCR Title 8, Section 342(a):**

342 Reporting Work-connected Fatalities and Serious Injuries.

(a) Every employer shall report immediately to the Division of Occupational Safety and Health any serious injury or illness, or death, of an employee occurring in a place of employment or in connection with any employment. The report shall be made by the telephone or through a specified online mechanism established by the Division for this purpose. Until the division has made such a mechanism available, the report may be made by telephone or email.

Immediately means as soon as practically possible but not longer than 8 hours after the employer knows or with diligent inquiry would have known of the death or serious injury or illness. If the employer can demonstrate that exigent circumstances exist, the time frame for the report may be made no longer than 24 hours after the incident.

Serious injury or illness is defined in section 330(h), Title 8, California Administrative Code.

### **VIOLATION:**

Employer failed to immediately report to the Division serious illnesses suffered by employees including, but not limited to, the following:

Instance 1: Employee hospitalization which occurred on or about December 2, 2020 due to a COVID-19 related illness.

Instance 2: Employee hospitalization which occurred on or about December 3, 2020 due to a COVID-19 related illness.

Instance 3: Employee hospitalization which occurred on or about December 5, 2020 due to a COVID-19 related illness.

Instance 4: Employee hospitalization which occurred on or about December 5, 2020 due to a COVID-19 related illness.

Instance 5: Employee hospitalization which occurred on or about December 9, 2020 due to a COVID-19 related illness.

Instance 6: Employee hospitalization which occurred on or about December 11, 2020 due to a COVID-19 related illness.

Instance 7: Employee hospitalization which occurred on or about December 12, 2020 due to a COVID-19 related illness.

Instance 8: Employee hospitalization which occurred on or about December 14, 2020 due to a COVID-19 related illness.

The Foster Poultry Farms, Inc., was previously cited for a violation of this occupational safety and health standard or its equivalent standard, CCR Title 8, Section 342(a), which was contained in OSHA inspection number 1371984, citation number 1, item number 1, and was affirmed as a final order on 10/30/2019, with respect to a workplace located at 843 Davis Street, Livingston CA 95334.

**Date By Which Violation Must be Abated:**

**June 9, 2021**

**Proposed Penalty:**

**\$10,000.00**

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Citation 2 Item 1 Type of Violation: **Serious**

**CCR, Title 8, Section 3203(a)(3):**

(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

(3) Include a system for communicating with employees in a form readily understandable by all affected employees on matters relating to occupational safety and health, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal. Substantial compliance with this provision includes meetings, training programs, posting, written communications, a system of anonymous notification by employees about hazards, labor/management safety and health committees, or any other means that ensures communication with employees.

**VIOLATION:**

Prior to and during the course of the Division's inspection, including but not limited to, on September 22, 2020, the employer failed to establish, implement and maintain an effective system for communicating with its employees, including the following instances, in particular, the employer:

Instance 1: Failed to effectively communicate about COVID-19 in the work place, including infections, outbreaks, and fatalities of employees to all workers who were exposed or potentially exposed;

Instance 2: Employer's meetings, training programs, posting, and other means of communication failed to communicate in a form readily understandable to the affected employees including providing information in a language readily understandable by workers, about COVID-19 infections at the facility;

Instance 3: Failed to effectively communicate with its own management for COVID-19 outbreaks and fatalities of employees; and

Instance 4: Failed to effectively communicate measures the employer was taking to prevent employee exposure to SARS-CoV-2, the virus that causes COVID-19.

**Date By Which Violation Must be Abated:** **June 09, 2021**  
**Proposed Penalty:** **\$22,500.00**

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**Inspection Site:** 2960 S. Cherry Ave.  
 Fresno, CA 93706

Citation 3 Item 1 Type of Violation: **Serious**

#### **CCR Title 8, Section 3203(a)(4):**

(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

(4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards:

- (A) When the Program is first established;
- (B) Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and
- (C) Whenever the employer is made aware of a new or previously unrecognized hazard.

#### **VIOLATION:**

Prior to and during the course of the Division's inspection, including but not limited to, on September 22, 2020, the employer failed to establish, implement and maintain an effective Injury and Illness Prevention Program including a failure to effectively identify or evaluate workplace hazards relating to COVID-19 that affected its employees. In particular, the employer:

- a) Failed to identify and evaluate the hazard of not providing or ensuring the proper use of face coverings for all employees to prevent the release of infectious particles into the air when persons are breathing, speaking, coughing, or sneezing;
- b) Failed to identify and evaluate the hazard of employees wearing inadequate, worn, damaged, or contaminated face coverings;
- c) Failed to identify and evaluate the hazard of a lack of physical distancing among employees, including, but not limited to the following locations:  
 Location 1: Cherry Plant Internal Breakroom where employees were closer than six feet from each other while retrieving lunch containers, eating, drinking, using microwaves and operating vending machines.  
 Location 2: Cherry Plant in front of break room in main hallway, where an employee was eating while walking in main corridor, with face covering worn below nose and chin in a common area with other

employees.

Location 3: Cherry Plant Live Hang Area where employees were stationed closer than six feet from each other.

Location 4: Cherry Plant Filet Area where employees were stationed closer than six feet from each other, including two women who were working in close proximity without a barrier for an extended period.

Location 5: Cherry Plant Exterior Breakroom where employees sit, eat and drink closer than six feet from each other.

d) Failed to effectively identify or evaluate the hazard of a lack of effective physical barriers at the facility, including, but not limited to the following locations:

Location 1: Cherry Plant Exterior Lunch Areas where employees sit, eat and drink closer than six feet from each other.

Location 2: Cherry Plant Interior Breakroom where employees sit, eat and drink closer than six feet from each other.

Location 3: Cherry Plant Filet Area where employees were stationed closer than six feet away from each other, including two women who were working in close proximity without a barrier for an extended period.

Location 4: Cherry Plant Filet Area where employees were stationed closer than six feet away without an effective barrier configuration for some employees.

**Or, in the Alternative to Instances a) and d):**

**CCR Title 8, Section 5141**

**5141. Control of Harmful Exposure to Employees.**

(a) Engineering Controls. Harmful exposures shall be prevented by engineering controls whenever feasible.

**VIOLATION:**

Prior to, and during the course of the Division's inspection, including, but not limited to, on September 22, 2020, the employer failed to prevent harmful exposures of its employees, to infectious or potentially infectious airborne particles by ensuring the use of engineering controls to prevent the spread of COVID-19, including, the following:

Instance 1: Face coverings to limit the release of infectious particles into the air when persons are speaking, coughing, or sneezing; and

Instance 2: Plexiglass screens or other physical barriers to limit contact and block potentially infectious particles from being released among its own employees and contract employees who were stationed and working within six feet of each other at the following locations:

Location 1: Cherry Plant Interior Breakroom where employees were closer than six feet from each other while retrieving lunch containers, eating, drinking, using microwaves and operating vending machines.

Location 2 : Live Hang Area where employees were stationed closer than six feet from each other.

Location 3: Cherry Plant Exterior Break Room where employees were closer than six feet of each other while in the area eating and drinking.

Location 4: Weigh and Pricing Area where employees were stationed closer than six feet from each other.

**Date By Which Violation Must be Abated:**

**June 09, 2021**

**Proposed Penalty:**

**\$22,500.00**

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Citation 4 Item 1 Type of Violation: **Serious**

**CCR Title 8, Section 3203(a)(6):**

(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

(6) Include methods and/or procedures for correcting unsafe or unhealthy conditions, work practices and work procedures in a timely manner based on the severity of the hazard:

(A) When observed or discovered; and,

(B) When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, remove all exposed personnel from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.

**VIOLATION:**

Prior to and during the course of the Division's inspection, including but not limited to, on September 22, 2020, the employer failed to establish, implement and maintain an effective Injury and Illness Prevention Program including a failure to effectively implement methods or procedures to correct unhealthy conditions or work practices relating to COVID-19 that affected its employees. In particular, the employer:

a) Failed to provide or implement the use of effective face coverings to prevent the release of infectious particles into the air when persons are breathing, speaking, coughing, or sneezing;

b) Failed to correct the fit issues associated with use of inadequate face coverings to prevent employee exposure to SARS-CoV-2, the virus that causes COVID-19;

c) Failed to implement a procedure to replace worn, damaged or contaminated face coverings;

d) Failed to implement physical distancing among employees, including, but not limited to the following locations:

Location 1: Cherry Plant Interior Breakroom where employees were closer than six feet from each other while retrieving lunch containers, eating, drinking, using microwaves and operating vending machines.

Location 2: Cherry Plant Filet Area where employees were stationed closer than six feet from each other.

Location 3: Cherry Plant Exterior Break Areas where employees were closer than six feet of each other while in the area eating and drinking.

Location 4: Cherry Plant Weigh and Pricing Area where employees were stationed closer than six feet from each other.

e) Failed to provide effective physical barriers among employees, including, but not limited to the following locations:

Location 1: Cherry Plant Exterior Lunch Areas where employees sit, eat and drink closer than six feet from each other.

Location 2: Cherry Plant Interior Breakroom where employees sit, eat and drink closer than six feet of each other.

Location 3: Cherry Plant Filet Area where, on or about September 22, 2020, employees were stationed closer than six feet away from each other.

Location 4: Cherry Plant Filet Area where employees were stationed closer than six feet away and the physical barrier configurations did not fully keep employees inside the physical barriers. [Section 3203(a)(6)]

f) Failed to implement adjustments when employees rotate among lines and jobs to minimize employee exposure to SARS-CoV-2, the virus that causes COVID-19.

**Or, in the Alternative to Instances b) and e)**

### **CCR Title 8, Section 5141**

#### **5141. Control of Harmful Exposure to Employees.**

(a) Engineering Controls. Harmful exposures shall be prevented by engineering controls whenever feasible.

#### **VIOLATION:**

Prior to, and during the course of the Division's inspection, including, but not limited to, on September 22, 2020, the employer failed to prevent harmful exposures of its employees, to infectious or potentially infectious airborne particles by ensuring the use of engineering controls to prevent the spread of COVID-19, including the following:

Instance 1: Face coverings to limit the release of infectious particles into the air when persons are speaking, coughing, or sneezing; and

Instance 2: Plexiglass screens or other physical barriers to limit contact and block potentially infectious particles from being released among its own employees and contract employees who were stationed and working within six feet of each other at the following locations:

Location 1: Cherry Plant Interior Breakroom where employees were closer than six feet from each other while retrieving lunch containers, eating, drinking, using microwaves and operating vending machines.

Location 2: Live Hang Area where employees were stationed closer than six feet from each other.

Location 3: Cherry Plant Exterior Break Room where employees were closer than six feet of each other while in the area eating and drinking.

Location 4: Weigh and Pricing Area where employees were stationed closer than six feet from each other.

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Citation 5 Item 1 Type of Violation: **Serious**

**CCR Title 8, Section 3203(a)(7):**

Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

Provide training and instruction:

- (A) When the program is first established;
- (B) To all new employees;
- (C) To all employees given new job assignments for which training has not previously been received;
- (D) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard;
- (E) Whenever the employer is made aware of a new or previously unrecognized hazard; and,
- (F) For supervisors to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.

**VIOLATION:**

Prior to and during the course of the Division's inspection, including, but not limited to, on September 22, 2020, the employer failed to provide training and instruction to its employees regarding the new occupational hazard of COVID-19, including but not limited to, training and instruction on how the virus is spread, measures to avoid infection, signs and symptoms of infection, how to properly disinfect faceshields, proper disinfection of shared equipment, and how to safely use cleaners and disinfectants.

**Date By Which Violation Must be Abated:**

**June 09, 2021**

**Proposed Penalty:**

**\$18,000.00**

Ted Vandervert      Jan Hami  
 Compliance Officer / District Manager